

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:)	In Chapter 11
)	Case No. 09 B 44734
BOSTON BLACKIES OF SKOKIE, INC.)	Honorable Jack B. Schmetterer
)	
Debtor and Debtor-In-Possession)	Motion Date: November 25, 2009
)	Motion Time: 1:30 p.m.

NOTICE OF EMERGENCY MOTION

To: See attached service list

PLEASE TAKE NOTICE THAT on November 25, 2009, at the hour of 1:30 p.m., an **EMERGENCY MOTION FOR AN ORDER PURSUANT TO 11 U.S.C. §105, 345 AND 363 AUTHORIZING CONTINUED MAINTENANCE OF EXISTING BANK ACCOUNTS AND CONTINUED USE OF EXISTING BUSINESS FORMS**, shall be heard by the Honorable Jack B. Schmetterer of the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division, in Room 682 at 219 South Dearborn Street, Chicago, Illinois 60604. A copy of same is attached hereto and thereby served upon you. You may appear if you so see fit.

QUERREY & HARROW, LTD.

AFFIDAVIT OF SERVICE

I, Eileen M. Sethna, an attorney certify that I caused the foregoing Notice of Motion to be served upon the persons named in the attached service list via facsimile on November 25, 2009.

/s/Eileen M. Sethna

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In re:)	In Chapter 11
)	Case No. 09 B 44734
BOSTON BLACKIES OF SKOKIE, INC.,)	Honorable Jack B. Schmetterer
)	
Debtor and Debtor-In-Possession)	Motion Date: November 25, 2009
)	Motion Time: 1:30 p.m.

**EMERGENCY MOTION FOR AN ORDER PURSUANT TO 11 U.S.C. §105, 345
AND 363 AUTHORIZING CONTINUED MAINTENANCE
OF EXISTING BANK ACCOUNTS AND CONTINUED
USE OF EXISTING BUSINESS FORMS**

Debtor, BOSTON BLACKIES OF SKOKIE, INC., by and through its attorneys, QUERREY & HARROW, LTD., moves this Court for an order, pursuant to sections §§ 105, 345 and 363 of Title 11 of the United States Code (the “Bankruptcy Code”) authorizing continued use of existing bank accounts. In support of this motion, Debtor respectfully represents as follows:

BACKGROUND

A. The Chapter 11 Case

1. On November 25, 2009, (the “Petition Date”), the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. Debtor now operates its business as a Debtor in Possession pursuant to §1107(a) and §1109 of the Bankruptcy Code.

2. No creditors’ committee has been appointed in this case.

3. Simultaneously with the filing of this case, the following affiliated cases were filed:

Boston Blackies of Arlington Heights, LLC	Case No. 09-B-44654
Boston Blackies of Naperville, LLC	Case No. 09-B-44655
Boston Blackies of Lake Cook Plaza, Inc.	Case No. 09-B-44649
Boston Blackies of Riverside Plaza, Inc.	Case No. 09-B-44646

Boston Blackies of Winnetka, Inc.
Boston Blackies Management Inc.
164 Grand, Inc.
Boston Blackies of Lincoln Park, LLC

Case No. 09-B-44652
Case No. 09-B-44643
Case No. 09-B-44658
Case No. 09-B-44734

4. This Court has jurisdiction of this Motion pursuant to 28 U.S.C. §§157 and 1134. Venue is proper pursuant to 28 U.S.C. §§1408 and 1409. The subject matter of this motion is a core proceeding pursuant to 28 U.S.C. §157(b)(2).

5. The statutory predicates for requested relief are §§105, 345 and 363 of the Bankruptcy Code.

B. Background and Current Business Operations

6. Debtor operates a restaurant featuring American style food. Debtor is part of a restaurant chain that operates in the Chicagoland area.

7. The Debtor's restaurant chain is primarily owned by various members of a family who is well known in the area for operating quality restaurants.

RELIEF REQUESTED

8. By this motion, Debtor seeks an ordering authorizing it to maintain its existing bank accounts and to use its existing business forms.

BASIS FOR RELIEF REQUESTED

9. Debtor's business and financial affairs involve the receipt and deposit of payments from credit card companies. These receipts are the primary source of Debtor's operating funds. Debtor maintains a bank account with Citizens Bank and Trust for receipt of the credit card payments (Account No.10007771).

10. The Office of the United States Trustee has established certain operating guidelines for debtors-in-possession in order to supervise the administration of Chapter 11 cases. These guidelines require Chapter 11 debtors to, among other things, (a) close all existing bank accounts and open new debtor-in-possession bank accounts, (b) establish one debtor-in-possession account for all estate monies required for payment of taxes, including payroll taxes, (c) maintain a separate account for cash collateral; and (d) obtain checks for all debtor-in-possession account which bears the designation "Debtor-in-Possession", the bankruptcy case number and the type of accounts.

11. Debtor seeks waiver of the requirements that the bank account be closed and a new post-petition bank account be opened. If enforced in this case, the requirements will cause enormous disruption in the Debtor's business as well as the business of its affiliated debtors.

12. In other cases of this size, it has been recognized that the strict enforcement of bank account closing requirements does not serve the rehabilitative purpose of chapter 11. Accordingly, courts in other major cases have waived such requirements and replaced them with alternative procedures that provide the same protections. *See, e.g., Comdisco, Inc.*, Case No. 01-24795 (RB) (Bankr. N.D. Ill. July 17, 2001); *Outboard Marine Corp.*, Case No. 00-37405 (EIK) (Bankr.N.D.Ill Dec. 22, 2000); *SourceOne Wireless, Inc.*, Case No. 99-13841 (ERW) (Bankr. N.D.Ill. Feb 1, 2000); *Ben Franklin Retail Source, Inc.* Case No. 96-19482 (RB) (Bankr. N.D. Ill. July 26, 1996); *Envirodyne Industries, Inc.*, Case No. 93-00319 (JDS) (Bankr.N.D.Ill. January 1, 1993); *In re The Singer Company N.V. et al.*, Case Nos. 99-10578 through 99-10607 (BRL), 99-10613 (BRL), 99-10616 through 99-10629 (BRL) and 00-10423 (BRL) (Bankr. S.D.N.Y. Sept. 15, 1999); *In re Venture Stores, Inc.*, No. 98-101 (D.Del. January 20, 1998) (Judge McKelvie); *In re The Elder-Beerman Stores Corp., et al.*, No. 95-33643, (Bankr. S.D.

Ohio October 17, 1995) (Judge Clark); *In re Gantos, Inc.*, No. 56 93-85478 (Bankr. W.D. Mich. November 12, 1993) (Judge Stevenson).

13. Accordingly, in order to avoid delays in payments to administrative creditors, to ensure as smooth a transition into chapter 11 as possible with minimal disruption, and to aid in the Debtor's efforts to successfully and rapidly complete these cases, it is important that the Debtor be permitted to continue to maintain its existing Bank Accounts.

14. In sum, subject to the prohibition against honoring prepetition checks without specific authorization from this Court, the Debtor requests that the Bank Accounts be deemed a debtor-in-possession account and its maintenance and continued use, in the same manner and with the same account numbers, styles and document forms as those employed during the prepetition period, be authorized.

15. In order to minimize expenses to its estate, the Debtor also request that it be authorized to continue to use all correspondence, business forms (including, but not limited to, letterheads, purchase orders, and invoices) and checks existing immediately prior to the Petition Date without reference to the Debtor's status as a debtor-in-possession.

16. Changing correspondence and business forms would be expensive, unnecessary, and burdensome to the Debtor's estate and disruptive to the Debtor's business operations and would not confer any benefit upon those dealing with the Debtor. For these reasons, the Debtor requests that it be authorized to use existing checks and business forms without being required to place the label "Debtor-in-Possession" on each.

17. Court in other major cases have routinely granted the same or similar relief to chapter 11 debtors. *See, e.g., Comdisco, Inc.*, Case No. 01-24795 (RB) (Bankr. N.D. Ill. July 17, 2001); *Outboard Marine Corporation*, Case No. 00-37405 (EIK) (Bankr. N.D. Ill. Dec. 22,

2000); *SourceOne Wireless, Inc.*, Case No. 99-13841 (ERW) (Bankr. N.D. Ill. Feb 1, 2000); *Ben Franklin Retail Stores, Inc.*, Case No. 96-19482 (RB) (Bankr. N.D. Ill. July 26, 1996); *Envirodyne Industries, Inc.*, Case No. 93-00319 (JDS) (Bankr.N.D.Ill. January 1, 1993); *In re The Singer Company N.V. et al.*, Case Nos. 99-10578 through 99-10607 (BRL), 99-10613 (BRL), 99-10616 through 99-10629 (BRL) and 00-10423(BRL) (Bankr. S.D.N.Y. Sept. 15, 1999); *In re ATC Group Services Inc., et al.*, Case Nos. 99-10437 through 99-10444 (JHG) (Bankr. S.D.N.Y); *In re Venture Stores, Inc.*, No. 98-101 (D.Del. January 20, 1998)(Judge McKelvie); *In re The Elder-Beerman Stores Corp., et al.*, No. 95-33643, (Bankr. S.D. Ohio October 17, 1995) (Judge Clark); *In re Gantos, Inc.*, No. 56 93-85478 (Bankr. W.D. Mich. November 12, 1993) (Judge Stevenson).

WHEREFORE, the Debtor respectfully requests that this Court enter an order:

- (A) Authorizing continued maintenance of existing bank account with Citizens Bank and Trust; and
- (B) Authorizing continued use of existing business forms; and
- (C) For such other relief as this Court deems just and proper.

BOSTON BLACKIES OF
SKOKIE, INC.

By: /s/ Eileen M. Sethna
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